

## USE OF FORCE ANALYSIS

THE YEAR 2002 MARKED  
THE FOURTH CONSECUTIVE  
YEAR THAT OFFICER-INVOLVED  
SHOOTING DECREASED  
IN THE CITY OF SAN JOSE.  
IN 2002, THERE WERE NO  
CITIZENS WOUNDED OR KILLED  
BY THE POLICE.

# Chapter Four

## CHAPTER FOUR | USE OF FORCE ANALYSIS

### I. Introduction

**T**his chapter focuses on analyzing the use of force that officers employed during the 2002 calendar year and that gave rise to a citizen complaint investigation. As a society we authorize the police to use force in the discharge of their duties provided that they apply only the force needed to resolve a given situation. Police work is distinguished from other occupations by their authority to lawfully apply force when necessary and police officers are the only public servants that are authorized to take a life. This degree of authority must rightfully receive extensive scrutiny. Investigations into the use of force are conducted by the San José Police Department's Internal Affairs Unit and closely monitored and audited by the Independent Police Auditor (IPA).

Allegations of unnecessary force must be examined with the understanding that many times San José Police Officers successfully resolved situations without any or minimal use of force. In 2002, the members of the SJPD handled a total of 463,984 calls for service from the public. These contacts ranged from responding to life threatening situations, to issuing traffic citations, to responding to false alarms. Of all the citizen-to-police contacts in 2002, only 11% involved making an arrest or issuing a criminal citation. This is consistent with the overall low crime rate in the City of San José.



### II. Officer-Involved Shootings

Most remarkable is the fact that in 2002, there were no officer-involved shootings that resulted in injury or death to a citizen.



L8 multi-launcher and rubber bullets.

In the last four years there was a total of 12 people killed and five wounded by San José police officers. Of the 17 people shot, 53% were suffering from some form of mental illness, 88% were armed with a weapon, 53% of those weapons were firearms, and 41% of those holding a firearm shot at the officers. In all of these cases, the officers' use of lethal force was found to be within policy. The year 2002 marked the fourth consecutive year that officer-involved shootings decreased in the City of San José. Four years ago, the SJPD was involved in eight officer shootings, which resulted in seven people fatally shot and one seriously

wounded. In 2002, there were no citizens wounded or killed by the police.

In 2002, the SJPD handled a total of 463,984 calls for service ranging from homicides to traffic citations.

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**Illustration: Four-Year Analysis of Officer Involved Shooting Cases**

Period	Number of Citizens Shot	Ethnicity	Mental Illness History?	Citizen Shot Armed?	Type of Weapon	Citizen Shoot at Officer?	Prior Criminal Record?	CIT* at Scene?	Citizen's Injuries	Degree of Within Policy?
1999	Case 1	Hispanic	No	Yes	Pistol	Yes	Yes	No	Fatal	Yes
	Case 2	Asian	Yes	Yes	Pistol	Yes	No	No	Fatal	Yes
	Case 3	White	No	No	None	No	Yes	No	Wounded	Yes
	Case 4	Hispanic	Yes	Yes	Pistol	Yes	No	No	Fatal	Yes
	Case 5	Hispanic	Yes	Yes	Knife	N/A	No	No	Fatal	Yes
	Case 6	White	Yes	Yes	Pistol	Yes	No	Yes	Fatal	Yes
	Case 7	Black	No	No	None	No	Yes	No	Fatal	Yes
	Case 8	Hispanic	Yes	Yes	Knife	N/A	No	Yes	Fatal	Yes
2000	Case 1	Hispanic	No	Yes	Pistol	No	Yes	No	Wounded	Yes
	Case 2	Hispanic	Yes	Yes	Axe/knife	N/A	Yes	No	Fatal	Yes
	Case 3	Vietnamese	Yes	Yes	Spear	N/A	Yes	No	Wounded	Yes
	Case 4	Chinese	No	Yes	Pistol	Yes	No	No	Fatal	Yes
	Case 5	White	Unknown	Yes	Shotgun	Yes	Yes	Yes	Fatal	Yes
2001	Case 1	Middle Eastern	Unknown	Yes	Knife	N/A	Yes	No	Wounded	Yes
	Case 2	White	No	Yes	Pistol	Yes	Yes	No	Wounded	Yes
	Case 3	White	Yes	Yes	Rifle/handgun	No	Yes	Yes	Fatal	Yes
	Case 4	White	Yes	Yes	Hammer/knife	N/A	Yes	No	Fatal	Yes
2002	None	None	None	None	None	None	None	None	None	None

### III. Creation of The Shooting Review Panel

In 1998, the Independent Police Auditor (IPA) sought to increase its jurisdiction to include review of all officer involved shootings regardless of whether a complaint was filed. The Mayor and the City Council supported this recommendation and in August of 1999 the Chief of Police followed by creating a panel to review all officer-involved shootings. This panel conducts a “freeze-frame” analysis of the policies and tactics used in each shooting.

The shooting review panel consists of the Chief of Police, the Deputy Chief for the Bureau of Field Operations, the Independent Police Auditor, the Training Unit Commander, and a representative from the City Attorney’s Office. In preparation for

attending a shooting review, the IPA will go the SJPd homicide unit and read the completed investigation.



Defensive driver training is taught in a state of the art simulator.

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Scrutiny of officer involved shootings starts with a step by step presentation by the Homicide Investigators that handled the case. A discussion of the policies, procedures, and tactics used are followed by questions about whether the police officers involved lacked training, experience, restraint or lacked sufficient tactical training to defuse a situation before it became necessary to use deadly force. Once each case is evaluated, potential policy or procedural changes raised by each case are discussed and made. Below are examples of the questions and areas that the Shooting Review Panel covers during these reviews:

- What lead to the shooting?
- How were the officers initially involved?
- Did the victim/suspect shoot at the officers?
- Were less lethal weapons used? If not, why not?
- Did the officer (s) exhaust all reasonable alternatives before firing?
- Was the officer's perception of immediate threat reasonable under the "Reasonable Officer Standard"?
- Was the deadly force used within department policy?
- What could have been done to avoid using lethal force?

While all the shootings reviewed were found to be within procedure, the close examination of these cases helped to raise the consciousness and awareness about the use of deadly force and the importance of preserving the sanctity of life.

### IV. Other Measures to Reduce the Need to Use Lethal Force

In addition to the creation of the shooting review panel, other measures were implemented such as greater use and availability of less lethal weapons. The SJPd tested and acquired Sage Guns which replaced the "Bean Bag" type of weapon. Within the last four years the SJPd has built a state of the

art training center where scenario-based firearms training is taught. This type of training allows officers to experience simulated settings where they are forced to decide when to shoot or not. In addition, the number of officers trained in recognizing and handling incidents involving people with mental disabilities was increased. It is difficult to conclusively point to the precise reasons for the decrease in officer-involved shootings. However, it cannot be ignored that a correlation exists between the measures described above and the fact that in 2002 no one was injured or killed by a San José Police officer-involved shooting. This is an extraordinary achievement considering that the city of San José has a population of almost one million people, over 1400 police officers, and over 450,000 citizens to police contacts per year.



Lt. Babineau at the SJPd Training Center demonstrates holding a sage gun.

### V. Use of Force Allegations

There were 141 Formal complaints filed in 2002. This is a decrease of only two Formal complaints from last year's figures. Of the 141 Formal complaints, 54 included allegations of Unnecessary Force (UF), two more than in the prior year. Each complaint may contain more than one allegation; there were 88 UF allegations filed in 2002, a slight decrease from the 92 UF allegations filed in 2001.

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SJPD Officer conducting an arrest.

Unnecessary Force allegations are divided into two categories: Class I and Class II. A Class I allegation involves serious bodily injury requiring medical care.<sup>7</sup> Class II allegations are incidents where the complainant did not require immediate medical care. Of the 54 UF complaints filed, nine were Class I complaints (three more than in 2001), and the remaining 45 were Class II complaints.

The IPA tracks different data regarding UF complaints to determine whether any trends or patterns can be detected regarding use of force incidents. The following charts present statistics for the past five years for 1) the degree of injury resulting from the force used; 2) the type of excessive force alleged to have been used; and 3) the part of the body impacted by the force.

**Illustration B: Degree of Injury**

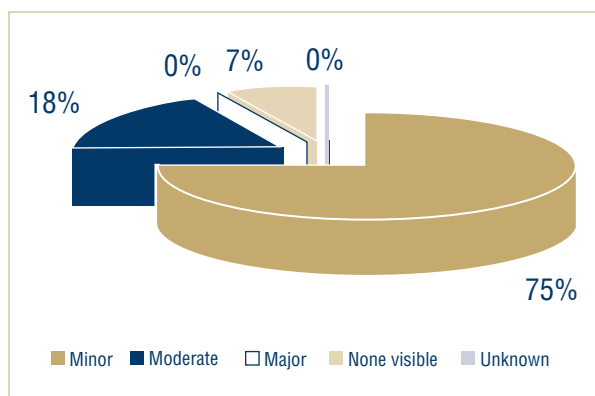


Illustration B, “Degree of Injury,” provides data about the degree of injury resulting from the alleged use of force. There are five categories ranging from “Major” to “None Visible.” Major injuries generally require major medical attention, whereas, Minor injuries usually do not require any medical attention. For example, minor injuries can involve minor abrasions, the use of chemical agents or bruising from tight handcuffs. It is significant to note that over the past two years there has been a significant reduction in the percentage of Major injuries and that Minor injuries, which always accounted for the highest percentage, now represent an even higher percentage of the degree of injury. This may be an indication that when officers have to use force, they are doing so with more circumspect.

**Illustration C: Type of Force Alleged**

Type of Alleged UF	Number	%
Baton	7	8
Canines	0	0
Car (officer)	3	3
Car (complainant)	1	1
Chemical Agent	4	5
Gun (officer)	0	0
Gun (complainant)	0	0
Feet	8	9
Ground	12	14
Hands	36	41
Handcuffs (tight)	11	13
Knee	5	6
Object	0	0
Other	1	1
Unknown	0	0
<b>Total</b>	<b>88</b>	<b>100%</b>

Illustration C, “Type of Alleged Unnecessary Force Used,” shows that there were 88 different types of unnecessary force alleged to have been used in 2002. This number is greater than the total number of UF cases because there can be more than

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one type of force alleged in the same case. For example, a complainant may have alleged that an officer or officers unnecessarily struck him with a baton, hit him with fists, kicked him and placed handcuffs on too tightly. This example would account for four different types of unnecessary force alleged in the same complaint.

The five-year comparison indicates that in 2002, there was little change in the distribution of the frequency of different types of force allegations. The use of hands, followed by the application of tight handcuffs, use of the ground and use of the feet continue to be the four types of unnecessary force alleged most often. It should be noted that allegations of the use of more severe types of force, such as batons, chemical sprays or guns, remains relatively low, an indication that officers are adhering to the department's force-option policy.

### Illustration D: Type of Force Alleged – Five Years Comparison

Type of Alleged UF	1998 %	1999 %	2000 %	2001 %	2002 %
Baton	13	8	7	10	8
Canines	2	0	0	0	0
Car (officer)	5	5	7	3	3
Car (complainant)	1	1	1	0	1
Chemical Agent	5	5	2	3	5
Gun (officer)	3	0	1	0	0
Gun (complainant)	2	0	0	0	0
Feet	10	9	10	10	9
Ground	8	10	6	6	14
Hands	34	40	44	43	41
Handcuffs (tight)	7	4	5	10	13
Knee	6	6	4	6	6
Object	1	0	3	1	0
Other	3	6	5	6	1
Unknown	1	5	5	0	0
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

### Illustration E: Location of Force Application - Five-Year Comparison

Area Afflicted by Alleged UF	1998 %	1999 %	2000 %	2001 %	2002 %
Head	30	20	22	28	33
Torso	12	13	18	19	22
Limbs	31	34	38	41	30
Multiple Body Parts	24	22	12	13	11
Unknown	4	11	10	0	4
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Illustration E, “Body Area Afflicted by Force” tracks information about the area of the body that was involved with the use of force. The area afflicted is divided into five categories: head, torso, limbs, multiple body parts and unknown. In each complaint, the alleged unnecessary force can impact more than one body area. The distribution of injuries to different areas of the body in 2002 saw an increase in injuries to the head. This is the fourth year that injuries to the head increased. As injuries to the head and torso increased, force

applied to the limbs decreased. SJPd officers are trained to apply force to the limbs. This is an area that the IPA will continue to monitor.